IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(***Special Original Jurisdiction***)

WEDNESDAY, THE TWENTIETH DAY OF JULY
TWO THOUSAND AND FIVE

P R E S E N T

THE HON'BLE MR JUSTICE ELIPE DHARMA RAO

***

WRIT PETITION NO. 15798 of 2005

Between:

Syed Mahmood, S/o.Syed Sahab, R/o.22-5-37, Charminar, Hyderabad.

..... PETITIONER

A N D

Municipal Corporation of Hyderabad, Rep by its Commissioner, Having office at Tankbund, Hyderabad.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ order or direction more particularly one in the nature of writ of mandamus declaring the in action of the respondent as illegal, high handed, arbitrary, unlawful and against the spirit of Constitution of India in not following the due process of law in order to demolish the un-authorized construction raised by Smt.Mahmooda Begum in respect of the bearing municipal No.22-8-389/1 and 2, admeasuring 423 Sq.Yards situated at Purani Haveli, Hyderabad by following due process of law and pass such other order or orders.

Counsel for the Petitioner: MR.NAZIR AHMED KHAN

Counsel for the Respondent: MR.G.RAMA RAO

The Court made the following at the admission stage: (Order follows 2nd page)

O R D E R :

This writ petition is filed seeking to declare the inaction on the part of the respondent in not following due process of law in demolishing the unauthorized construction raised by Mrs.Mahmooda Begum in respect of house bearing M.No.22-8-389/1 and 2, admeasuring 423 sq.yards situate at Purani Haveli, Hyderabad, as illegal, arbitrary and against the spirit of the Constitution of India.

The case of the petitioner is that he entered into an agreement of sale with one Mrs.Mahmooda Begum on 06-4-1982 of her property bearing premises no.22-8-389/1 and 2 admeasuring about 423 sq.yards situate at Purani Haveli, Hyderabad for a sale consideration of Rs.5,00,000-00 and out of which he paid an amount of Rs.4,50,000/- as earnest sale consideration to Mrs. Mahmooda Begum and promising to pay the balance sale consideration at the time of execution of sale deed in his favour. Thereafter, due to non-performance of contract, he filed OS.No.1426 of 2004 on the file of the Court of First Senior Civil Judge, City Civil Court, Hyderabad against her and some other persons who are trying to cause hindrance by creating third party right and the said suit is pending. He had also filed IA.No.1006 of 2004 seeking to restrain her and her associates not to change the

nature of the property till the disposal of the said suit but the trial court granted statusquo and the same is subsisting.

While things stood thus, Mrs.Mahmooda Begum is proceeding with the construction activity violating the orders passed in IA.No.1006 of 2004 in OS.No.1426 of 2004. When the petitioner enquired with the respondent, it is learnt that Mrs.Mahmooda Begum has not filed any application seeking permission to construct the building. Therefore, he made a representation to the respondent seeking to take action under section 452 of Hyderabad Municipal Corporation Act by demolishing the unauthorized construction raised by her but the respondent has not taken any action for the reasons best known to them.

The petitioner further submits that he has submitted another representation on 06-7-2005 to the respondent to initiate action against Mrs.Mahmooda Begum, who is making illegal construction in broad daylight by violating the aforesaid order but the respondent authorities are not taking any action against her. Therefore, he filed the present writ petition seeking to direct the respondent to demolish the unauthorized construction raised by Mrs.Mahmooda Begum in respect of premises bearing No.22-8-389/1 and 2, admeasuring 423.0 sq.yards situate at Purani Haveli, Hyderabad, by following due process of law in the interest of justice.

Heard the learned counsel for the petitioner as well as the learned Govt.Pleader for the respondent.

After hearing both sides, without going into the merits or otherwise, the main grievance of the petitioner is that Mrs.Mahmooda Begum is proceeding with the

construction activity violating the orders passed in IA.No.1006 of 2004 in OS.No.1426 of 2004 on the file of the Court of First Senior Civil Judge, City Civil Court, Hyderabad and the said suit was filed by the petitioner against Mrs.Mahmooda Begum and some other persons who are trying to cause hindrance by creating third party right and the said suit is pending adjudication and the rights of the parties cannot be decided in this writ petition, therefore, I deem it appropriate to direct the respondent to consider and dispose of the representation dated 06-7-2005 submitted by the petitioner and pass appropriate orders on merits and in accordance with law within a period of two weeks from the date of receipt of a copy of this order, after affording reasonable opportunity to the petitioner to put forth his grievance.

With the above direction, the writ petition is disposed of at the admission stage. No costs.

JULY 20th, 2005. ----------

I S L. **ELIPE DHARMA RAO ,J**.

To

1. The Commissioner, Municipal Corporation of Hyderabad, office at

Tankbund, Hyderabad.

2. Two CCs to Mr.G.Rama Rao, Standing Counsel for the Municipal

Corporation, Hyderabad.

3. One CC to Mr.Nazir Ahmed Khan, (8283), Counsel for the Petitioner.